

**ZONING BOARD OF APPEALS
December 1, 2008 Meeting Minutes**

Board Members Present: Shane O'Connor, Howard Aspinwall, Robert Rosenberg,
Curtis Ruckey and Alternate Joseph Lawsing

Town Staff Present: Jennifer Rodriguez, Planning Coordinator and
Assistant Zoning and Wetlands Officer

Chairman O'Connor called the meeting to order at 7:11 pm.

Board roll call was taken.

MINUTES:

Chairman O'Connor referred to the November 3, 2008 meeting minutes and asked for any corrections or changes. There were none. He then asked for a motion regarding the minutes. Mr. Rosenberg moved to accept the November 3, 2008 meeting minutes, as published. Mr. Ruckey seconded the motion. All were in favor. The vote was 4 – 0 (Mr. Lawsing was not present for this vote), the motion was approved.

BILLS & CORRESPONDENCE:

None

OLD BUSINESS:

- a. Continued public hearing on Application #FY08-09-06, Owner/Applicant: Walter P. Seaha for the property located at 10 Wedemeyer Street to reduce lot frontage on the combined Lots 11-12 from 100 feet to 83 feet, where 120 feet are required; increase the frontage on Lot 13 from 50 feet to 67 feet, where 120 feet are required; reduce square footage of combined Lots 11-12 from 10,000 square feet to 8,038 square feet, where 21,000 square feet are required; and increase square footage of Lot 13 from 5,000 square feet to 6,488.5 square feet, where 21,000 square feet are required.**

Attorney Paul Smith addressed the Board on behalf of the applicant and noted that they were in the middle of the public hearing that had been started in November. He commented that one of the things that the Board had wanted to see were some conceptual plans of how it would work. Attorney Smith then distributed copies of the following conceptual plans:

1. A Cape built on the 50 foot wide lot as it currently existed. It would be a 22 foot wide house, in order to keep it within the regulatory envelope (front, rear and side yard requirements).
2. A Cape built on the proposed 67 foot wide lot. It would be a 32 foot wide house and would still remain within the regulatory envelope (front, rear and side yard requirements).

Attorney Smith distributed photographs of various houses in Town. He explained that the first three photographs were of houses that had been built on 50 foot wide lots, the fourth photograph was of a recently built house with the garage in front and the entrances on the sides of the house, and the fifth and sixth photographs were of two houses that had been built on 67 foot wide lots. Attorney Smith pointed out that the proposed plan was similar to the final photograph of a cape with a garage built on a 67 foot wide lot.

Attorney Smith stated that the 67 foot wide lot would allow them to build a little better home that would fit better in the neighborhood as opposed to what they could build on a 50 foot wide lot.

Attorney Smith referred to the variance/hardship and read the following from a case file:

“What you want to find is that there is something sufficiently unique about the lot situation and zoning situation so that it warrants an acceptance of a literal enforcement of the zoning ordinance and that the Board grants a variance because if there were adherence to the strict letter of the zoning ordinance it would be unnecessary to carry out the general purposes of the Zoning.”

Attorney Smith explained that they were trying to build a house that would reasonably fit with the neighborhood in order to help preserve the value of the surrounding homes. He went on to say that from the Town’s perspective it was about preserving what’s around it. Attorney Smith stated that that was where the hardship arose. He then noted that the Court had said that the Zoning Board of Appeals was basically endowed with liberal discretion.

Attorney Smith commented that a 50 foot wide lot would require them to build a house that would be out of character with what was currently in the neighborhood. He then pointed out that it was a unique situation in that the property owner actually owned all three lots. Attorney Smith concluded by stating that the 67 foot wide lot would also allow them to build a house that was a little more square to the street.

Chairman O'Connor pointed out that there were only four Board members present and asked Attorney Smith if he was okay with that. Attorney Smith replied that he was comfortable with that.

Chairman O'Connor asked the Board members for any questions. They had none.

Chairman O'Connor asked for any public comments in favor of the application.

Pat Logan of 18 Wedemeyer Street addressed the Board and stated that she would rather see them proceed with anything other than a 50 foot wide lot.

Chairman O'Connor asked for any public comments in opposition to the application. There were none.

Chairman O'Connor asked for a motion regarding Application #FY08-09-06. Mr. Rosenberg moved to accept Application #FY08-09-06, Owner/Applicant: Walter P. Seaha for the property located at 10 Wedemeyer Street to reduce lot frontage on the combined Lots 11-12 from 100 feet to 83 feet, where 120 feet are required; increase the frontage on Lot 13 from 50 feet to 67 feet, where 120 feet are required; reduce square footage of combined Lots 11-12 from 10,000 square feet to 8,038 square feet, where 21,000 square feet are required; and increase square footage of Lot 13 from 5,000 square feet to 6,488.5 square feet, where 21,000 square feet are required. Mr. Aspinwall seconded the motion. All were in favor. The vote was 4 – 0, the motion was approved. Chairman O'Connor noted that the variance was solely for the changes indicated in the application; any additional changes shall require a return to the Board.

NEW BUSINESS:

Joseph Lawsing arrived at 7:30 pm.

- a. Public hearing on Application #FY08-09-07, Owner/Applicant: W.L. Quagliaroli LLC for the property located at 11 Northgate Drive to reduce the side yard to 13 feet, where 25 feet are required.**

Attorney Paul Smith addressed the Board on behalf of the applicant and distributed a copy of a map from the GIS system which showed the entire lot in question. He then stated that 11 Northgate Drive was owned by the applicant and that he operated Evergreen Tree Service from the building on that property.

Attorney Smith explained that the Northgate subdivision was developed in the late 1980's through the 1990's and that it consisted of a series of small Industrial 2 lots at that time. He went on to say that over the years Mr. Quagliaroli had purchased a substantial portion of the Industrial 2 and Industrial 3 property located behind his building. Attorney Smith stated that the applicant ran his tree service from the property and that he rented out part of the building.

Attorney Smith stated that the applicant was proposing to put a 120x55 foot addition onto the existing building. He explained that it was a commercial/industrial building and that it would be block construction with overhead doors.

Attorney Smith noted that when Mr. Quagliaroli had originally purchased the building it would not have required a variance because back in 1990 for Industrial 2 the regulations allowed a 7,500 square foot lot with 12 foot side yards and 12 foot rear yards. He went on to say that subsequently the Town had amended those regulations. Attorney Smith noted that currently in Industrial 2 the size of the lot was 15,000 square feet with 25 foot side and rear yard requirements; therefore an expansion of the existing building was problematic. He went on to say that there was no way to expand the building without violating the current side yard requirement.

Attorney Smith pointed out that other than about 20 feet of the side yard on the right hand side (north side); the proposed addition would comply with every other requirement (rear yard, side yard and coverage requirements).

Attorney Smith stated that currently on that side of Northgate Drive most of the lots were undeveloped. He went on to say that if someone were to propose a building on one of those undeveloped lots that they would not have to comply with the new Zoning requirements; they could comply with the existing Zoning requirements that were in place when the subdivision was approved in 1990. Attorney Smith explained that Mr. Quagliaroli could not do so because he had an existing building that he wanted to expand.

Attorney Smith stated that the hardship was the unique lot. He then noted that if the variance were granted they would then have to go before the Planning and Zoning Commission for site plan approval. Attorney Smith concluded by stated that it was a classic variance.

Chairman O'Connor asked the Board members for any questions. Mr. Rosenberg asked if there was a reason why they could not make the building the same width. Attorney Smith replied that they had found that the existing building was a little tight

for their use, therefore they felt that a little wider would be a better fit. He then pointed out that they would have needed the variance either way. He went on to say that architecturally they wanted some sort of break-up of the building and not just one long building.

Mr. Ruckey asked if just shifting it to the left would be unacceptable. Attorney Smith replied that they were concerned that it might start to infringe on the drive area.

Chairman O'Connor asked the Board members for any other questions. They had none.

Chairman O'Connor asked Ms. Rodriguez for any comments. Ms. Rodriguez stated that she had had a question about the drive aisle, but that Attorney Smith had stated that it was a paved drive aisle.

Chairman O'Connor asked for any public comments in favor of the application. There were none.

Chairman O'Connor asked for any public comments in opposition to the application.

Wayne Habermeyer, owner of Lots 15, 17 and 19 next to the property in question, addressed the Board. He asked if it were true that any future proposed buildings on his undeveloped lots would only have to meet the 1990 requirements. He then asked what the implications would be on his future plans to build on his lots.

Attorney Smith stated that functionally he did not know how it would affect Mr. Habermeyer's lots. He went on to say that he thought that his previous analysis was correct.

Mr. Habermeyer again asked if it would affect his ability to build on his property in the future. Chairman O'Connor replied that it would not affect Mr. Habermeyer in coming before the Board in the future; the two were not connected.

Attorney Smith stated that whatever Mr. Habermeyer were to build would have to stand on its own. He went on to say that Mr. Quagliaroli receiving a variance might actually make it easier for Mr. Habermeyer to go before the Board to receive one also.

Chairman O'Connor reiterated that it would not have anything to do with Mr. Habermeyer building on his lots.

Mr. Habermeyer asked if it were true that he could build under the old 1990 requirements. Ms. Rodriguez replied that it would have to go before the Planning and Zoning Commission. She went on to say that in the recent past they had ruled both ways on similar issues.

Chairman O'Connor asked for a motion regarding Application #FY08-09-07. Mr. Ruckey moved to accept Application #FY08-09-07, Owner/Applicant: W.L. Quagliaroli LLC for the property located at 11 Northgate Drive to reduce the side yard to 13 feet, where 25 feet are required. The variance is solely for the side yard changes indicated in the application and any additional changes shall require a return to the Board. The side yard variance shall not extend along the entire side yard to the rear yard. The variance is not a permit to build. Mr. Rosenberg seconded the motion. All were in favor. The vote was 5 – 0, the motion was approved.

- b. Public hearing on Application #FY08-09-08, Owner: Jack Rafalowski, Applicant: Paul G. Scott for a Motor Vehicle, General Repairer License for the property located at 1000 Old County Circle.**

Ed Lally, licensed professional engineer and land surveyor, addressed the Board and distributed copies of the plans to the Board members. He explained that Mr. Scott wanted to use the property in question for his company, ECS Performance. Mr. Lally stated that Mr. Scott would be using a small portion of the horseshoe-shaped building which had parking in the front with loading and some parking in the back. He went on to say that the building consisted primarily of office and industrial uses with some shipping and receiving.

Mr. Lally explained that Mr. Scott had started his business a few years prior and that it had grown. He went on to say that he provided services to customers all over the United States and that he never actually saw most of his customers. Mr. Lally stated that Mr. Scott would take engines in street cars or cars for sporting events, modify them and ship them back to the customer. He went on to say that the work involved adding turbos or other after market parts.

Mr. Lally stated that because they would be doing work on vehicles they needed a General Repairer License, but that it was not the typical repair shop. He commented that it was a very high tech operation with a low number of customers.

Mr. Lally stated that the proposal was to occupy the space in question with another company, Turbo Kits.com, which did not need a Repairer License. He noted that they did mostly mail order sales.

Mr. Lally stated that it was a 7,610 square foot space. He then submitted a floor plan and explained that there were two loading docks and an at grade entrance in the rear and some entrances in the front. He went on to say that the only change to the exterior of the building would be to replace the existing sign with a new one of the same size.

Mr. Lally stated that all of the work would be done inside of the building and that it would be very rare that a vehicle would be parked outside. He then reiterated that they did not serve the general public.

Mr. Lally submitted a petition that had been signed by the neighbors. He noted that all but one individual signed the petition and that that individual simply was not in the area at the time.

Mr. Lally noted that the noise would be minimal and that there were no floor drains.

Chairman O'Connor asked the Board members for any questions. Mr. Ruckey clarified that the cars would be carted in, customized and sent back to the customer. Mr. Scott replied that that was correct. Mr. Ruckey asked how they would dispose of any wastes. Mr. Scott replied that he would use a 50 gallon waste oil drum, similar to what he was currently using. Mr. Lally then pointed out that most of the work was done on 4 cylinder vehicles, no large heavy-duty vehicles. Mr. Ruckey clarified that they would not be running cars on the road. Mr. Scott replied that that was correct; the vehicles would be tested on a dinometer inside the building. Mr. Ruckey then asked what occupied the space right next door to the space in question. Mr. Scott replied that it was a machine shop.

Chairman O'Connor asked the Board members for any further questions. They had none.

Mr. Lally pointed out that Storage America was across the street from the site and that Bennington Machine was next door.

Chairman O'Connor asked how many shifts there would be. Mr. Scott replied that there would only be one shift working from 9:00 am to 5:00 pm, Monday through Friday.

Chairman O'Connor asked Ms. Rodriguez for any comments. Ms. Rodriguez stated that there were conditions contained in her memo that would need to be read into the record if the application was approved.

Mr. Lally stated that they would be going before the Planning and Zoning Commission at their December 8, 2008 meeting.

Chairman O'Connor asked the Board members for any final questions. They had none.

Chairman O'Connor asked for any public comments in favor of the application.

Jesse Pellegatto, owner of Turbo Kits.com, stated that he was in favor of the application.

Chairman O'Connor asked for any public comments in opposition to the application. There were none.

Chairman O'Connor asked for a motion regarding Application #FY08-09-08. Mr. Ruckey moved to accept Application #FY08-09-08, Owner: Jack Rafalowski, Applicant: Paul G. Scott for a Motor Vehicle, General Repairer License for the property located at 1000 Old County Circle. The location approval is solely for the uses proposed in the application. Any change in use or license shall require a return to the Board. It is not a permit to build. Please see the Building Department and Public Works Department for necessary permits required prior to site work. Mr. Rosenberg seconded the motion. All were in favor. The vote was 5 – 0, the motion was approved.

Mr. Rosenberg moved to adjourn the meeting. Mr. Ruckey seconded the motion. All were in favor. The vote was 5 – 0, the meeting was adjourned at 8:10 pm.

Respectfully submitted,

Diane Ferrari
Recording Secretary

THIS IS A DRAFT

Please check the following month's meeting minutes for official approval of these minutes and any amendments or corrections that were made.